THE HON'BLE SRI JUSTICE V.V.S.RAO

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WRIT PETITION No.1742 of 2005

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Dated:17.03.2006

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Between:

Smt.Sk.Mabunni, W/o.Sk.Jafar, and others.

…Petitioner

And

The District Collector, Anantapur, and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1742 of 2005

ORDER:

The petitioners, who are 49 in number, invoke the jurisdiction of this Court assailing the proceedings of the second respondent, dated 20.09.2004, whereby and whereunder, the third respondent herein was directed to implement the decree of the Special Tribunal, Anantapur, in L.G.O.P.No.81 of 1983, dated 04.07.2000, in accordance with the Andhra Pradesh Land Grabbing (Prohibition) Rules, 1988 (for short 'the Rules'). While admitting the Writ Petition, this Court stayed dispossession. The fourth respondent moved an application for vacating the stay. The same, being W.V.M.P.No.2368 of 2005, was dismissed for default on 26.12.2005. Therefore, the fourth respondent in the Writ Petition moved an application, being W.P.M.P (SR) No.18195 of 2006 to setaside the order, dated 26.12.2005, dismissing W.V.M.P for default, along with an application, being W.P.M.P.No.4698 of 2006, to condone the delay of 27 days in filing the said petition. This application is listed today. However, having regard to the controversy involved, the matter is heard finally and is being disposed of by this order.

The father of the fourth respondent obtained a decree from the Special Tribunal constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, being L.G.O.P.No.81 of 1983, for declaration and eviction of some of the petitioners or the predecessors of the petitioners. The same was not implemented. Therefore, the father of the fourth respondent filed I.A.No.934 of 2000 before the Special Tribunal under Rule 15(1) of the Rules for execution. The learned Special Tribunal Judge directed the Revenue Divisional Officer to give effect to the decree passed by the Special Tribunal. It was not done. The fourth respondent then filed W.P.No.6889 of 2004. By an order, dated 09.04.2004, this Court directed the Revenue Divisional Officer, Anantapur, to implement the orders of the Tribunal. It is only thereafter, the second respondent issued the impugned letter to the third respondent.

Heard the learned Counsel for the petitioners, the learned Assistant Government Pleader for Revenue (General) and the learned Counsel for the fourth respondent.

There cannot be any dispute that under Rule 15 of the Rules, whenever a decision or decree is passed by the Special Tribunal or Special Court, it has to be communicated to the Revenue Divisional Officer and the same has to be implemented in accordance with sub-Rules (2) to (7) of Rule 15 of the Rules. However, the learned Counsel submits that as some of the third parties are in possession of the land, without notice there cannot be any execution of the order/decree passed by the Special Tribunal. Rule 15 of the Rules nowhere contemplates a notice to the person in possession or occupation of the grabbed land. However, on reading sub-Rules (1) to (5) of Rule 15 together, it becomes clear that when the Revenue Divisional Officer issues a direction in Form V deputing any Officer not below the rank of Revenue Inspector, along with an authorization, the Officer, so deputed, shall have to serve the authorization on the person in possession of the land, asking to deliver the possession. Under sub-Rule (4) of Rule 15 of the Rules, if a person in occupation or possession of the grabbed land delivers possession, pursuant to the service of authorization/order of the Revenue Divisional Officer, the deputed Officer shall record a certificate in Form VI and send the same to the Revenue Divisional Officer and to the Court/Tribunal. It is only when the person, on whom a copy of the authorization is served, fails to deliver possession of the land

voluntarily, the Revenue Divisional Officer can take possession after removing any obstruction or unauthorized occupation by taking Police assistance. Therefore, it is reasonable to hold that even when a person, who is not a party to L.G.O.P or L.G.C, is in occupation, he is entitled to a notice as contemplated under Rule 15(3) of the Rules. The notice need not be formal, but service of a copy of the authorization issued by the Revenue Divisional Officer to the deputed Officer would be sufficient compliance with the rule of serving notice. In this case, admittedly, no such notice was served on any of the 49 petitioners.

In view of the above, this Court is of the opinion that interest of justice would be served by directing the second respondent herein or any other Officer deputed to implement the orders of the Tribunal, to serve a copy of the authorization given by the Revenue Divisional Officer under Rules 15(2) and 15(3) of the Rules before proceeding further under Rules 15(4) and 15(5) of the Rules. Subject to this, it is always open to the third respondent to implement the orders of the Special Tribunal.

The Writ Petition, with the above observations and directions, is disposed of. No costs.

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(V.V.S.RAO, J)

17.03.2006

vs